



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2018-0812; FRL-9989-73-Region 7]

**Approval of State Plans for Designated Facilities and
Pollutants; Kansas; Sewage Sludge Incineration Units**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is accepting the negative declaration submitted by the State of Kansas, for Sewage Sludge Incineration (SSI) units. This negative declaration submitted by the Kansas Department of Health and Environment (KDHE) certifies that SSI units subject to sections 111(d) and 129 of the Clean Air Act (CAA) do not exist within the jurisdiction of the State of Kansas. The EPA is accepting the negative declaration in accordance with the requirements of the CAA.

DATES: This final rule will be effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2018-0812. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is

restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Larry Gonzalez, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7041 or by email at gonzalez.larry@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA.

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I. Background

The Clean Air Act (CAA) requires that state regulatory agencies implement emission guidelines and associated compliance times using a state plan developed under sections 111(d) and 129 of the CAA.

The general provisions for the submittal and approval of state plans are codified in 40 CFR part 60, subpart B and 40 CFR part 62, subpart A. Section 111(d) establishes general

requirements and procedures on state plan submittals for the control of designated pollutants. Section 129 requires emission guidelines to be promulgated for all categories of solid waste incineration units, including SSI units. SSI units are defined at 40 CFR 60.5250 as an incineration unit combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter. Sewage sludge incineration unit designs include fluidized bed and multiple hearth. A SSI unit also includes, but is not limited to, the sewage sludge feed system, auxiliary fuel feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. The SSI unit includes all ash handling systems connected to the bottom ash handling system. The combustion unit bottom ash system ends at the truck loading station or similar equipment that transfers the ash to final disposal. The SSI unit does not include air pollution control equipment or the stack.

Section 129 mandates that all plan requirements be at least as protective as the promulgated emission guidelines. This includes fixed final compliance dates, fixed compliance schedules, and Title V permitting requirements for all affected sources. Section 129 also requires that state plans be submitted to EPA within one year after EPA's promulgation of the emission guidelines and compliance times.

States have options other than submitting a state plan in order to fulfill their obligations under CAA sections 111(d) and 129. If a state does not have any existing SSI units for the relevant emission guidelines, a letter can be submitted certifying that no such units exist within the state (*i.e.*, negative declaration) in lieu of a state plan, in accordance with 40 CFR 60.5010. The negative declaration exempts the state from the requirements of subpart B that would otherwise require the submittal of a CAA section 111(d)/129 plan.

On March 21, 2011, EPA finalized emission guidelines for SSI units at 76 FR 15372, (found at 40 CFR part 60, subpart MMMM). Following the 2011 final rule, KDHE determined that there were two SSI units operating at a single facility in Kansas, but those units were permanently shut down on June 14, 2014 and September 7, 2016. Prior to shutdown of the two units at the single facility in Kansas, the two units were regulated via the Federal plan under the enforcement oversight of EPA Region 7. In response and following the shutdown of the units, KDHE submitted a negative declaration for SSI units on April 30, 2018.

On December 26, 2018, the EPA published in the **Federal Register** at 83 FR 66209, a rule proposing to accept KDHE's certification that there exists no SSI units operating in the State of Kansas Subject to 40 CFR part 60, subpart MMMM. In response to this proposal, EPA received no adverse comments.

Therefore, the EPA is finalizing acceptance of KDHE's negative declaration submission made on April 30, 2018. This action applies to the state's regulatory requirements for existing facilities and not new sources.

II. What Action is EPA Taking?

In this rule, the EPA is amending 40 CFR part 62 to reflect receipt of the negative declaration letter from the state of Kansas (KDHE) certifying that there are no existing SSI units subject to 40 CFR part 60, subpart M, in accordance with section 111(d) of the CAA.

III. Statutory and Executive Orders

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action approves the state's negative declaration as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action does

not impose an enforceable duty upon State, local, or tribal governments, and does not reduce or eliminate the amount of authorization of Federal appropriations, and because it contains no regulatory requirements applicable to small governments, this action does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This action is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Thus Executive Order 13132 does not apply to this action. This action merely approves a state's negative declaration submitted in response to a Federal standard, and does not alter the relationship or the distribution of power and responsibilities

established in the CAA. This rulemaking also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it approves a state submission in response to a Federal standard.

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, sewage sludge incineration units.

Dated: March 1, 2019.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 62 as set forth below:

**PART 62 -- APPROVAL AND PROMULGATION OF STATE PLANS FOR
DESIGNATED FACILITIES AND POLLUTANTS**

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart R-Kansas

2. Amend subpart R by adding an undesignated center heading and §62.4183 to read as follows:

Air Emissions From Existing Sewage Sludge Incineration Units
§62.4183 Identification of plan - negative declaration.

Letter from the Kansas Department of Health and Environment submitted April 30, 2018, certifying that there are no sewage sludge incineration units subject to 40 CFR part 60, subpart MMMM.

[FR Doc. 2019-04051 Filed: 3/6/2019 8:45 am; Publication Date: 3/7/2019]